



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/804,428

03/18/2004

John-Paul Pizana Cana

034914-007

7233

7590

08/17/2009

Robert E. Krebs
THELEN REID & PRIEST LLP
P.O. Box 640640
SAN JOSE, CA 95164-0640

EXAMINER

LONSBERRY, HUNTER B

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

08/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,428	Applicant(s) CANA ET AL.	
	Examiner Hunter B. Lonsberry	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,470,378 to Tracton in view of US 7,003,793 B2 to Hwang et al.

Regarding claims 1 and 21, Tracton discloses in figure 4 an apparatus for presenting audio and/or video selections to a user comprising:

a processor 106,

a user interface connected to the processor, through which the user identifies a particular audio and/or video selection (MPEG content, web browser utilized to connect and retrieve data column 4, lines 20-53, input device 44, column 9, lines 56-63),

the device communicating the identity of the particular selection over a cellular network and receiving the selection in electronic format from the provider via the cellular

Art Unit: 2421

network (MPEG content, web browser utilized to connect and retrieve data column 4, lines 20-53), and

a presentation device operation to present the particular selection to the user in audio and/or video form (438, column 9, line 48-55).

While Tracton does disclose transmitting the data via a network, Tracton is silent regarding the use of a radio modem.

Hwang discloses a VOD terminal 11 which utilizes WAP to communicate with a VOD server 13 to transmit stock information, entertainment, as well as video content (figure 1, column 3, lines 59-column 4, line 17, column 5, lines 1-17). WAP is a generic name for a protocol that enables the use of the Internet from a wireless terminal such as a mobile phone or PDA. Previously in order to utilize the internet with a mobile phone, a notebook computer with an installed modem card had to be connected to a terminal, WAP has enabled Internet communications using the mobile phone terminal itself (column 1, lines 29-43). Hwang inherently utilizes a radio modem as Hwang teaches the use of a wireless connection between the server and the playback device and a radio modem is required in order to transmit via a wireless telecommunications service.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to utilize the wireless modem as taught by Hwang for the advantages of providing stocks and entertainment information, reduction in the number of devices needed to transmit wirelessly and to provide a convenient mobile way to connect to a remote service.

Art Unit: 2421

Regarding claims 2-4 and 22-24, Tracton discloses that the computing device 402, connects to a number of storage devices, including CDROM/DVD, CD-RW, floppy disks, tapes, along with flash memory cards, memory sticks, and hard drives (column 9, lines 30-55) which contain data and executable instructions for the computing device 402.

Tracton is silent regarding whether the media contains data presentable by the presentation device.

The Examiner takes official notice that the above listed media may be used to present audio such as music, and video data to a user and provide an easy way to purchase and share media with another user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton's variety of media to contain audio visual information, for the above mentioned advantages.

Regarding claims 5-6 and 25-26, Tracton discloses that the computing device 402, connects to a number of storage devices, including CDROM/DVD, CD-RW, floppy disks, tapes, along with flash memory cards, memory sticks, and hard drives (column 9, lines 30-55) which contain data and executable instructions for the computing device 402.

Regarding claims 7 and 27, Tracton discloses that the particular selection is obtained via the Internet (figure 4).

Regarding claims 8 and 28, Hwang is relied upon to teach the use of a mobile phone in a wireless environment , but fails to specifically disclose utilizing cellular technology.

The examiner takes official notice that utilizing cellular technology is notoriously well known in the art. Cellular networks are commonly utilized around the world and provide a common way for mobile devices to access content and other users.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Tracton and Hwang to utilize cellular technology for the above mentioned advantages.

Regarding claims 9 and 29, Tracton discloses using a cell phone, but does not disclose if the cell phone is configured to establish a cellular connection with another user. While this is a common use of cell phone technology, it is not inherent that Tracton is configured to do so.

The Examiner takes official notice that using the radio modem of a cell phone to connect and establish a connection is notoriously well known in the art. Cell phones let user's exchange data; catch up with on recent events etc.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to allow a user to connect to another cellular user via a cellular modem for the above mentioned advantages.

Art Unit: 2421

Regarding claims 10-11 and 30-31, Tracton discloses that the content is in streaming form as an MPEG compressed file (column 4, lines 33-49, column 5, lines 47-65).

Regarding claims 12 and 22, Tracton discloses that the processor using a web browser (column 4, lines 14-24).

Regarding claims 13 and 33, Tracton discloses that the device may be a PDA, But fails to disclose contact storage and calendar features.

The examiner takes official notice that contact storage and calendar features in a PDA are notoriously well known in the art. These provide an easy way for a user to plan their schedule and remember contact information for other people.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to include contact storage and calendar features for the above mentioned advantages.

Regarding claims 14 and 34, Tracton discloses a processor with Internet and web browsing capability.

Tracton is silent with regards to email capabilities which allow for email to be received and transferred.

The examiner takes official notice that sending/receiving email is notoriously well known in the art. Email is a convenient way to keep track of events and share information with friends.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to include email capabilities for the above mentioned advantages.

Regarding claims 15 and 25, Tracton discloses the use of a connection port 418 to send/receive data to a data source.

Regarding claims 16 and 36, Tracton discloses an interface port 418 but fails to disclose the use of USB.

The Examiner takes official notice that USB is notoriously well known in the art for transferring media and other data between devices. USB provides an easy and common network interface and provides autodiscovery capabilities.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to use USB for the above mentioned advantages.

Regarding claims 17-18 and 37-38, Tracton disclose using a variety of input and output devices.

Tracton is silent regarding using a detachable LCD table which communicates wirelessly with the processor.

The Examiner takes official notice that wireless LCD tablets are well known in the art.

LCD tablets provide a convenient unwired way to access data from a wide number of locations.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to utilize a wireless LCD tablet for the above mentioned advantages.

Regarding claims 19 and 39, Tracton discloses the use of a cell phone device.

Tracton is silent regarding the use of a microphone utilized in conjunction with a processor for voice recognition.

The examiner takes official notice that voice recognition via a microphone is notoriously well known in the art. Cell phones use voice recognition for dialing a contact by name, thereby relieving the user from having to enter and remember a cell phone number.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tracton to enable voice recognition via a microphone for the above mentioned advantages.

Regarding claims 20 and 40, Tracton discloses the use of a touchpad (column lines 56-63).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,878,324 to Borth: Method and system for distribution of wireless digital multimedia signals in a cellular pattern

US 5,574,966 to Barzegar et al: Wireless Base Station Architecture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is (571)272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2421

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hunter B. Lonsberry/
Primary Examiner
Art Unit 2421

HBL